

Remarks:

Claims 5, 7, 9-11, and 21-22 remain for consideration in this application with claims 5, 21 and 22 being in independent format. In view of the claims as they now stand, together with the remarks hereunder, Applicants assert that the rejections of the Office Action dated September 30, 2005 have been overcome.

It was noted in the Action that any application that desires the benefit of an earlier-filed application must contain a specific reference to the earlier filed application. Applicants assert that such a reference was present in the application as filed.

Claims 5-11 were rejected under 35 U.S.C. 112, second paragraph for omitting essential steps. This rejection has been addressed by adding the RNA isolation step and by providing a final determining step in the claims. Accordingly, Applicants assert that this rejection has been overcome.

Claims 5-11 were rejected under 35 U.S.C. 112, first paragraph, for lacking enablement for differentiating the virulence or avirulence of all PRRSV strains based on their restriction enzyme digestion results. To begin, these claims have been amended to recite that the digestion is done with the restriction enzyme Nsp1. Applicants assert that such claims are supported by Example 8 and that those of skill in the art can analyze the results of any restriction digesting based on the sequence being digested and the restriction enzyme used. In this case, the restriction enzyme Nsp1 is used and it was noted in Example 8 that JA-142 is the only isolate or strain known to have 2 Nsp1 restriction sites. All virulent field strains have, at most, one Nsp1 restriction site. In other words, when given a specific restriction enzyme and a specific sequence, those of skill in the art would be able to determine how many restriction sites were present, and thereby determine or predict whether the

strain or isolate would be virulent or avirulent. Moreover, more than one field isolate was analyzed in this fashion. Accordingly, in view of the Wands factors, Applicants assert that the claims, as amended, are fully enabled, and further assert that this rejection has been overcome.

Finally, claims 5, and 7-11 were rejected under 35 U.S.C. 102(b) as anticipated by WO 97/31652 to Wesley et al. (Wesley). Applicants have overcome this rejection by amending the limitations of claim 6 (which was not rejected) into independent claim 5. Accordingly, Applicants assert that this rejection has been overcome.

New claims 21 and 22 each differentiate over the cited prior art for the reasons given above and are fully supported by the application as filed, specifically Example 8 and page 4, lines 3-11.

Any additional fee which is due in connection with this amendment should be applied against our Deposit Account No. 19-0522.

Serial No.: 10/654,545

Docket No. 27093B-CNT1

In view of the foregoing, a Notice of Allowance appears to be in order and such is courteously solicited.

Respectfully submitted,

By 

Tracey S. Truitt, Reg. No. 43,205
HOVEY WILLIAMS, LLP
2405 Grand Boulevard, Suite 400
Kansas City, Missouri 64108
816/474-9050

ATTORNEYS FOR APPLICANT(S)